

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

761L0679

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1194 - 02/07/2005

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives O'Brien, Garnos, and Rounds and Senator Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to require notification to certain retail licensees of
2 prohibited alcohol sales to persons below the age of twenty-one prior to any subsequent
3 violation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 35-2 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any enforcement entity that conducts compliance checks using underaged informants to
8 determine if a licensee will sell an alcoholic beverage to a person under the age of twenty-one
9 must inform the licensee in writing of the results of any such compliance check within forty-
10 eight hours after the compliance check takes place.

11 Section 2. That § 35-2-10.1 be amended to read as follows:

12 35-2-10.1. No retail license may be revoked or suspended because of a violation of any
13 statute, ordinance, rule, or regulation prohibiting the sale or service of any alcoholic beverage
14 to a person under the age of twenty-one years if the violation was committed by an employee
15 or agent of the licensee and the licensee has not had more than two violations of any statute,



1 ordinance, rule, or regulation prohibiting the sale or service of an alcoholic beverage to a person
2 under the age of twenty-one years on the premises where the violation occurred in the previous
3 twenty-four months.

4 If the licensee meets the requirements of the conditions provided by this section, the
5 secretary shall impose a civil penalty of five hundred dollars for a first violation and one
6 thousand dollars for a second violation. However, if the employee or agent has not been certified
7 by a nationally recognized training program approved by the Department of Revenue that
8 provides instruction on techniques to prevent persons under the age of twenty-one years from
9 purchasing or consuming alcoholic beverages, the secretary shall impose a civil penalty of one
10 thousand dollars for a first violation and two thousand dollars for a second violation.

11 A violation of any statute, ordinance, rule, or regulation prohibiting the sale or service of any
12 alcoholic beverage to a person under the age of twenty-one years occurring within forty-eight
13 hours of commencement of a compliance check as provided in section 1 of this Act shall be
14 considered to be a first violation for purposes of this section. However, except for purposes of
15 corroboration, at no time may more than one underaged informant be used in any compliance
16 check in any forty-eight hour period.

17 A licensee may request an administrative hearing pursuant to chapter 1-26 to contest the
18 imposition of a civil penalty.